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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,936

12/29/2004

Chao-Nan Xu

2004-2055A

5091

513 7590 04/04/2007
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1755

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/519,936

Applicant(s)

XU ET AL.

Examiner

C. Melissa Koslow

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1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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This action is in response to applicants' amendment of 21 February 2007. The amendments to the claims have overcome the rejections based on U.S. patent 6,117,574; U.S. patent 4,374,037 and U.S. patent 3,178,611. Applicant's arguments with respect to the remaining art rejections have been fully considered but they are not persuasive.

It is clear that the indication of claim 4 as being allowable was a typographical error since claims was not directed to a process. Claim 5 is the only process in the claims and thus it is clear that the allowed claim should be given as claim 5.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 4 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 2,541,384.

This reference teaches a ZnS:Cu, phosphor having a mixed structure of both a wurtzite phase and zincblende, or sphalerite, phase. This phosphor can be rewritten as $(1-x)\text{ZnS} \cdot x\text{CuS}$, where x is less than 1, since it is clear from the reference that the phosphor is not 100% CuS. The reference teaches the claimed phosphor.

Applicants argue the reference does not teach the copper activator does not form copper sulfide and there is no teaching that the taught phosphor has the claimed structure. With respect to the crystal structure, applicants are referred to column 3, lines 9-32 which teaches the taught phosphor has both the wurtzite and zincblende, or sphalerite, phases. Thus the reference does teach the argued crystal structure. With respect to the argument that the references does not teach copper sulfide, applicants are referred to U.S. patents 6,265,068 and 2,743,237. These patents

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teach the copper in the phosphor exists as copper sulfide ('237:col. 1, lines 41-44 and 68-71 and col. 2, lines 5-20; '068: col. 5, lines 25-30). The rejection is maintained.

Claim 5 is allowable over the cited art of record.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The process of claim 5 is not taught or suggested by the cited art of record. There is no teaching or suggestion in the cited art of record of a mechanoluminescent material having the formula $(M^1_x M^2_{1-x})A$, where $0 < x < 1$, A is a chalcogen, M^1 is Mn or Eu and M^2 is Zn, Cd, Cu, Fe, Co, Ni, Mg, Ca, Eu if M^1 is Mn and Mn if M^1 is Eu, and where the material has a mixed structure of the wurtzite and zincblende.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
March 30, 2007


C. Melissa Koslow
Primary Examiner
Tech. Center 1700